

In order for a transaction to qualify for exemption on the basis of the Farm machinery & Equipment exemption, a certification must be obtained containing the information set out at 86 Ill. Adm. Code 130.305(m). (This is a GIL).

September 27, 2002

Dear Xxxxx:

This letter is in response to your letter dated July 29, 2002. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be accessed at the Department's Website at <http://www.revenue.state.il.us/Laws/regs/part1200/>.

In your letter, you have stated and made inquiry as follows:

I am a tree farmer. I operate under a forestry management plan approved by Illinois Forestry Development Act.

I recently bought and paid sales tax on a small chipper. With this I leave chips on the forest floor from branches I have pruned instead of hauling off the branches and burning them. Cir 1993 I bought a mower—keeps weeds down around seedlings and smaller trees. My district forester talked to some lady (name unknown) who said I would be eligible for tax exemption as a tree farmer. I passed that info to the dealer. If a tax exempt number was required I gave him the county RE tax number of my farm. Anyhow I didn't pay any tax. The dealer may have been exempt on that one or he may have eaten it to avoid paperwork.

Today I called the required number; talked to a man (name unknown) who told me to write you for a reading on tax exemption for the chipper and for forestry hardware and products in general. He also said an exemption number was based on a NUC 1 whatever that is.

I get my chipper tax money back from the dealer when I come through with your approval and a number.

We have enclosed 86 Ill. Adm. Code 130.305, the regulation covering the Illinois sales/use tax exemption afforded machinery and equipment used primarily in production agriculture. This exemption can include machinery and equipment used primarily in floriculture or horticulture, see subsections 130.305(b-d). Persons who engage in tree farming by raising and selling trees can purchase machinery or equipment tax free if it will be primarily used in the business of forestry. New or used repair or replacement parts necessary for the operation of the exempt machinery used primarily in production agriculture can also qualify, 130.305(l). The manner in which this exemption is documented is explained at subpart (m) of Section 130.305.

Please note that for the use of machinery to qualify in these businesses, the trees, nursery stock, shrubs, etc. must be produced for sale. Therefore, if the primary usage of machinery or equipment is to produce plants, shrubs, trees, etc. that will not be put on the market, such as where owners use them for their own landscaping purposes, or to produce seedlings/trees to re-forest their own land, then purchasers cannot claim the exemption.

The use of a wood chipper or grinder primarily (over 50%) to produce mulch for sale would qualify for the exemption. The use of such a machine to primarily produce wood chips to use as mulch on one's own land (e.g. forest or garden) does not qualify for the exemption.

If you were to sell tangible personal property at retail, you should register with the Department to obtain a Certificate of Registration and you would file sales tax returns. Please be advised that Section 2a of the Retailers' Occupation Tax Act provides in pertinent part that "It is unlawful for any person to engage in the business of selling tangible personal property at retail in this State without a certificate of registration from the Department." Information about registering and obtaining return forms can be obtained by calling the Department's Central Registration Section at 217 785-3707.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Karl W. Betz
Associate Counsel

KWB:msk
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